CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

REMARKS/ARGUMENTS

Applicants respectfully request reconsideration and allowance of this application in view of the amendments above and the following comments.

Regarding the information disclosure statement filed January 10, 2006, the Examiner indicated that certain documents had not been considered because copies of those documents had not been filed. In response, Applicants now provide the missing copies and respectfully request that the Examiner consider these documents and acknowledge consideration thereof.

The specification was objected to because of the presence of two abstracts submitted on January 10, 2006. In response, Applicants' representative apologizes for the confusion. However, Applicants believe the two abstracts of record are, in fact, identical. Accordingly, the Office may use either one. Applicants do not believe that the submission of a third identical abstract will clarify the situation.

Claims 4 and 9 were objected to because of certain informalities. In response, Applicants have corrected the typographical errors in these claims.

Claims 1, 4, 5, 7 and 9 were rejected under 35 USC § 102(b) as being anticipated by Heung, US 6,432,379. In response, Applicants remind the Examiner that anticipation requires that each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference, and, further, the absence in the prior art reference of even a single one of the claim elements is sufficient to negate anticipation. *In re Robertson,* 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). As will be explained below, Heung does not teach

each and every element found in the rejected claims. Consequently, Heung cannot anticipate the rejected claims and, therefore, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Applicants have amended main claims 1 and 5 above to make perfectly clear the various alternatives that are covered. Thus, the hydrogen storage component is selected from:

(a) alkali alanate,

(b) a mixture of aluminum metal with alkali metal and/or alkali metal hydride,

(c) magnesium hydride, and

(d) mixtures of any of (a)-(c).

Heung does not describe such a hydrogen storage component. Consequently, Heung cannot anticipate the rejected claims.

In his abstract, Heung mentions "metal hydrides" broadly. However, this is not a specific teaching of any of the particular hydrogen storage components (a)-(d) required by the rejected claims. Accordingly, this particular teaching of Heung cannot anticipate the rejected claims.

Further, the only specific disclosures of particular hydrogen storage components that Heung has are of La-Ni-AlH (see column 5, line 35) and Lm-Ni-AlH (see column 5, lines 39-46, and column 9, line 33). However, neither of these specific materials meets the terms of the particular hydrogen storage components (a)-(d) required by the instant claims. Accordingly, these particular teachings of Heung also cannot anticipate the rejected claims.

In short, Applicants do not see any teaching in Heung that could even remotely be

considered to be anticipatory of the rejected claims. The Examiner writes:

> "Heung discloses the claimed invention for material comprising *a hydrogen storage component selected from alkali alanate, a mixture of aluminum metal with alkali metal and/or alkali metal hydride and magnesium hydride and mixtures thereof,* wherein the hydrogen storage component is encapsulated in a porous matrix (emphasis added),"

making reference to Heung's abstract. However, the Examiner merely parrots the language of the instant claims in writing the italicized portions of the quote above. Such language is not found in Heung's abstract. And, if this rejection is maintained, Applicants respectfully request that the Examiner explain in detail exactly what language in Heung's abstract is actually being relied upon as meeting the terms of the instant claims. As noted above, Heung's abstract mentions "metal hydride" broadly, but not any particular metal hydrides, and such broad recitation is woefully inadequate, as a matter of law, to establish anticipation of the rejected claims. *See, for example, In re Meyer,* 202 USPQ 175, 179 (CCPA 1979) ("The genus, 'alkaline chlorine or bromine solution,' does not identically disclose or describe, within the meaning of §102, the species alkali metal hypochlorite, since the genus would include an untold number of species.")

And, although the Examiner did not raise it, Applicants also respectfully submit that such broad recitation of "metal hydride" is also insufficient, as a matter of law, to establish a *prima facie* case of the obviousness of the rejected claims over Heung. The mere fact that Heung teaches "metal hydride" does not render *prima facie* obvious every conceivable specific metal hydride. *See, In re Baird,* 29 USPQ2d 1550, 1552 (Fed. Cir. 1994) ("The fact that a claimed

compound may be encompassed by a disclosed generic formula does not by itself render that compound obvious.") Instead, a *prima facie* case of obviousness is only made out if the prior art highlighted the selections that must be made to achieve the claimed compounds in some manner, and, therefore, led persons skilled in the art towards them. There is nothing in Heung leading towards the particular hydrogen storage components (a)-(d) required by the rejected claims. Therefore, Applicants respectfully submit that Heung could not make out a *prima facie* case of the obviousness of the rejected claims either.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw the anticipation rejection based on Heung. An early notice that this rejection has been reconsidered and withdrawn is earnestly solicited.

Claim 2 was rejected under 35 USC § 103(a) as being obvious over Heung in view of Antonelli, US 7,078,130.

Claim 3 was rejected under 35 USC § 103(a) as being obvious over Heung in view of MacGillivray, US 2009/0000474.

Claim 5 was rejected under 35 USC § 103(a) as being obvious over Heung in view of DeFilippi et al. ("DeFilippi"), US 5,503,738.

Claim 8 was rejected under 35 USC § 103(a) as being obvious over Heung in view of Golben, US 6,508,866.

In response to ***all*** of the obviousness rejections, Applicants respectfully point out that each was critically dependent upon Heung constituting an anticipation of the broader aspects of

the instant claims, which Applicants have shown above is not, in fact, the case. There is nothing in any of the secondary references that overcomes the above-noted deficiencies of Heung. Consequently, each of the combinations of Heung and Antonelli, MacGillivray, DeFilippi or Golben fails to make out a *prima facie* case of the obviousness of any of the rejected claims.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw each of these obviousness rejections. An early notice that these rejections have been reconsidered and withdrawn is earnestly solicited.

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,
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